

Senate Bill 14

By: Senators Albers of the 56th, Robertson of the 29th, Dugan of the 30th, Payne of the 54th,  
Beach of the 21st and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 24 of the Official Code of Georgia Annotated, relating to evidence, so as to  
2 provide for the presentation and addressing of issues concerning the admission or exclusion  
3 of evidence; to provide for court rulings on such issues; to provide for the preservation of  
4 error concerning such issues for appellate purposes; to provide for continuing objections; to  
5 revise the hearsay exception regarding expert testimony and learned treatises; to provide for  
6 a short title; to provide for related matters; to provide for an effective date; to repeal  
7 conflicting laws; and for other purposes.

8 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

9 **SECTION 1.**

10 This Act shall be known and may be cited as the "Modernizing Georgia's Evidence and  
11 Proceedings Act."

12 **SECTION 2.**

13 Title 24 of the Official Code of Georgia Annotated, relating to evidence, is amended in  
14 Article 2 of Chapter 1, relating to general evidentiary matters, by revising Code  
15 Section 24-1-103, relating to rulings on evidence, as follows:

16 "24-1-103.

17 (a)(1) Error shall not be predicated upon a ruling which admits or excludes evidence  
18 unless a substantial right of the party is affected and:

19 ~~(1)~~(A) In case the ruling is one admitting evidence, a timely objection or motion to  
20 strike appears of record, stating the specific ground of objection, if the specific ground  
21 was not apparent from the context; or

22 ~~(2)~~(B) In case the ruling is one excluding evidence, the substance of the evidence was  
23 made known to the court by an offer of proof or was apparent from the context within  
24 which questions were asked.

25 (2) Once the court makes a definitive ruling on the record admitting or excluding any  
26 evidence, either at or before trial, a party need not renew an objection or offer of proof  
27 to preserve such claim of error for appeal.

28 (3) When no ruling has been made on the record concerning the admission or exclusion  
29 of evidence, a contemporaneous objection or offer of proof must be made to preserve a  
30 claim of error on appeal.

31 (b) The court shall accord the parties adequate opportunity to state grounds for objections  
32 and present offers of proof. The court may add any other or further statement which shows  
33 the character of the evidence, the form in which it was offered, the objection made, and the  
34 ruling thereon. The court may direct the making of an offer of proof in question and  
35 answer form. Upon request of any party, the court shall place its ruling on the record.

36 (c) Jury proceedings shall be conducted, to the extent practicable, so as to prevent  
37 inadmissible evidence from being suggested to the jury by any means, including, but not  
38 limited to, making statements or offers of proof or asking questions in the hearing of the  
39 jury.

40 (d) Nothing in this Code section shall preclude a court from taking notice of plain errors  
41 affecting substantial rights although such errors were not brought to the attention of the  
42 court.

43 (e) Where a party can reasonably anticipate an evidentiary issue to be previewed or  
44 decided in advance of trial, a motion in limine should be filed prior to trial. The court  
45 should address the admission or exclusion of evidence on such motions pretrial, prior to  
46 the jury being impaneled, and issue timely written orders ruling upon the admission or  
47 exclusion of such evidence. In determining whether to consider an evidentiary issue in  
48 advance of trial, the court may, but shall not be required to, consider:

49 (1) Whether the issue is the type of question of law that would be subject to de novo  
50 review on appeal;

51 (2) Whether a pretrial ruling on the issue may impact a party's decision to proceed to  
52 trial;

53 (3) Whether a pretrial ruling may have a significant impact on the trial;

54 (4) Whether a pretrial ruling may impact whether a witness or witnesses will testify at  
55 trial; and

56 (5) Whether a pretrial ruling may impact significant planning or decision-making of the  
57 parties prior to or during the trial.

58 (f) The court may allow a continuing objection to evidence of the same or similar nature  
59 or subject to the same or similar objection."

60

### SECTION 3.

61 Said title is further amended in Article 1 of Chapter 8, relating to general provisions  
62 regarding hearsay, by revising paragraph (18) of Code Section 24-8-803, relating to hearsay  
63 rule exceptions and availability of declarant immaterial, as follows:

64 **"(18) Learned treatises.** To the extent called to the attention of an expert witness ~~upon~~  
65 ~~cross-examination~~, statements contained in published treatises, periodicals, or pamphlets,  
66 whether published electronically or in print, on a subject of history, medicine, or other  
67 science or art, established as a reliable authority by the testimony or admission of the  
68 witness, by other expert testimony, or by judicial notice. If admitted, the statements may

69 be used for cross-examination of an expert witness and read into evidence but shall not  
70 be received as exhibits;"

71 **SECTION 4.**

72 This Act shall become effective upon the approval of this Act by the Governor or upon its  
73 becoming law without such approval.

74 **SECTION 5.**

75 All laws and parts of laws in conflict with this Act are repealed.